



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0207

Introduced 1/19/2007, by Rep. Harry R. Ramey, Jr.

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-13
730 ILCS 5/5-8-1

from Ch. 38, par. 12-13
from Ch. 38, par. 1005-8-1

Amends the Criminal Code of 1961. Provides that a person who has been convicted of a second or subsequent offense for criminal sexual assault in which the penalty is not natural life imprisonment shall be sentenced to a term of imprisonment of not less than 25 years (unless the minimum sentence is greater than 25 years) and not exceeding natural life imprisonment. Amends the Unified Code of Corrections. Provides that the minimum mandatory supervised release term for defendants who commit a second or subsequent offense of criminal sexual assault on or after the effective date of this amendatory Act shall be the natural life of the defendant (rather than from 3 years to natural life).

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing
5 Section 12-13 as follows:

6 (720 ILCS 5/12-13) (from Ch. 38, par. 12-13)

7 Sec. 12-13. Criminal Sexual Assault.

8 (a) The accused commits criminal sexual assault if he or
9 she:

10 (1) commits an act of sexual penetration by the use of
11 force or threat of force; or

12 (2) commits an act of sexual penetration and the
13 accused knew that the victim was unable to understand the
14 nature of the act or was unable to give knowing consent; or

15 (3) commits an act of sexual penetration with a victim
16 who was under 18 years of age when the act was committed
17 and the accused was a family member; or

18 (4) commits an act of sexual penetration with a victim
19 who was at least 13 years of age but under 18 years of age
20 when the act was committed and the accused was 17 years of
21 age or over and held a position of trust, authority or
22 supervision in relation to the victim.

23 (b) Sentence.

1 (1) Criminal sexual assault is a Class 1 felony.

2 (2) A person who is convicted of the offense of
3 criminal sexual assault as defined in paragraph (a)(1) or
4 (a)(2) after having previously been convicted of the
5 offense of criminal sexual assault, or who is convicted of
6 the offense of criminal sexual assault as defined in
7 paragraph (a)(1) or (a)(2) after having previously been
8 convicted under the laws of this State or any other state
9 of an offense that is substantially equivalent to the
10 offense of criminal sexual assault, ~~commits a Class X~~
11 ~~felony for which the person~~ shall be sentenced to a term of
12 imprisonment of not less than 30 years and not exceeding
13 natural life imprisonment ~~of not less than 30 years and not~~
14 ~~more than 60 years~~. The commission of the second or
15 subsequent offense is required to have been after the
16 initial conviction for this paragraph (2) to apply.

17 (3) A person who is convicted of the offense of
18 criminal sexual assault as defined in paragraph (a)(1) or
19 (a)(2) after having previously been convicted of the
20 offense of aggravated criminal sexual assault or the
21 offense of predatory criminal sexual assault of a child, or
22 who is convicted of the offense of criminal sexual assault
23 as defined in paragraph (a)(1) or (a)(2) after having
24 previously been convicted under the laws of this State or
25 any other state of an offense that is substantially
26 equivalent to the offense of aggravated criminal sexual

1 assault or the offense of criminal predatory sexual assault
2 shall be sentenced to a term of natural life imprisonment.
3 The commission of the second or subsequent offense is
4 required to have been after the initial conviction for this
5 paragraph (3) to apply.

6 (4) A person who is convicted for a ~~A~~ second or
7 subsequent offense conviction for a violation of paragraph
8 (a) (3) or (a) (4) or under any similar statute of this State
9 or any other state for any offense involving criminal
10 sexual assault that is substantially equivalent to or more
11 serious than the sexual assault prohibited under paragraph
12 (a) (3) or (a) (4) shall be sentenced to a term of
13 imprisonment of not less than 25 years and not exceeding
14 natural life imprisonment ~~is a Class X felony.~~

15 (5) (Blank). ~~When a person has any such prior~~
16 ~~conviction, the information or indictment charging that~~
17 ~~person shall state such prior conviction so as to give~~
18 ~~notice of the State's intention to treat the charge as a~~
19 ~~Class X felony. The fact of such prior conviction is not an~~
20 ~~element of the offense and may not be disclosed to the jury~~
21 ~~during trial unless otherwise permitted by issues properly~~
22 ~~raised during such trial.~~

23 (Source: P.A. 90-396, eff. 1-1-98.)

24 Section 10. The Unified Code of Corrections is amended by
25 changing Section 5-8-1 as follows:

1 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

2 Sec. 5-8-1. Sentence of Imprisonment for Felony.

3 (a) Except as otherwise provided in the statute defining
4 the offense, a sentence of imprisonment for a felony shall be a
5 determinate sentence set by the court under this Section,
6 according to the following limitations:

7 (1) for first degree murder,

8 (a) a term shall be not less than 20 years and not
9 more than 60 years, or

10 (b) if a trier of fact finds beyond a reasonable
11 doubt that the murder was accompanied by exceptionally
12 brutal or heinous behavior indicative of wanton
13 cruelty or, except as set forth in subsection (a) (1) (c)
14 of this Section, that any of the aggravating factors
15 listed in subsection (b) of Section 9-1 of the Criminal
16 Code of 1961 are present, the court may sentence the
17 defendant to a term of natural life imprisonment, or

18 (c) the court shall sentence the defendant to a
19 term of natural life imprisonment when the death
20 penalty is not imposed if the defendant,

21 (i) has previously been convicted of first
22 degree murder under any state or federal law, or

23 (ii) is a person who, at the time of the
24 commission of the murder, had attained the age of
25 17 or more and is found guilty of murdering an

1 individual under 12 years of age; or, irrespective
2 of the defendant's age at the time of the
3 commission of the offense, is found guilty of
4 murdering more than one victim, or

5 (iii) is found guilty of murdering a peace
6 officer, fireman, or emergency management worker
7 when the peace officer, fireman, or emergency
8 management worker was killed in the course of
9 performing his official duties, or to prevent the
10 peace officer or fireman from performing his
11 official duties, or in retaliation for the peace
12 officer, fireman, or emergency management worker
13 from performing his official duties, and the
14 defendant knew or should have known that the
15 murdered individual was a peace officer, fireman,
16 or emergency management worker, or

17 (iv) is found guilty of murdering an employee
18 of an institution or facility of the Department of
19 Corrections, or any similar local correctional
20 agency, when the employee was killed in the course
21 of performing his official duties, or to prevent
22 the employee from performing his official duties,
23 or in retaliation for the employee performing his
24 official duties, or

25 (v) is found guilty of murdering an emergency
26 medical technician - ambulance, emergency medical

1 technician - intermediate, emergency medical
2 technician - paramedic, ambulance driver or other
3 medical assistance or first aid person while
4 employed by a municipality or other governmental
5 unit when the person was killed in the course of
6 performing official duties or to prevent the
7 person from performing official duties or in
8 retaliation for performing official duties and the
9 defendant knew or should have known that the
10 murdered individual was an emergency medical
11 technician - ambulance, emergency medical
12 technician - intermediate, emergency medical
13 technician - paramedic, ambulance driver, or other
14 medical assistant or first aid personnel, or

15 (vi) is a person who, at the time of the
16 commission of the murder, had not attained the age
17 of 17, and is found guilty of murdering a person
18 under 12 years of age and the murder is committed
19 during the course of aggravated criminal sexual
20 assault, criminal sexual assault, or aggravated
21 kidnaping, or

22 (vii) is found guilty of first degree murder
23 and the murder was committed by reason of any
24 person's activity as a community policing
25 volunteer or to prevent any person from engaging in
26 activity as a community policing volunteer. For

1 the purpose of this Section, "community policing
2 volunteer" has the meaning ascribed to it in
3 Section 2-3.5 of the Criminal Code of 1961.

4 For purposes of clause (v), "emergency medical
5 technician - ambulance", "emergency medical technician
6 - intermediate", "emergency medical technician -
7 paramedic", have the meanings ascribed to them in the
8 Emergency Medical Services (EMS) Systems Act.

9 (d) (i) if the person committed the offense while
10 armed with a firearm, 15 years shall be added to
11 the term of imprisonment imposed by the court;

12 (ii) if, during the commission of the offense,
13 the person personally discharged a firearm, 20
14 years shall be added to the term of imprisonment
15 imposed by the court;

16 (iii) if, during the commission of the
17 offense, the person personally discharged a
18 firearm that proximately caused great bodily harm,
19 permanent disability, permanent disfigurement, or
20 death to another person, 25 years or up to a term
21 of natural life shall be added to the term of
22 imprisonment imposed by the court.

23 (1.5) for second degree murder, a term shall be not
24 less than 4 years and not more than 20 years;

25 (2) for a person adjudged a habitual criminal under
26 Article 33B of the Criminal Code of 1961, as amended, the

1 sentence shall be a term of natural life imprisonment;

2 (2.5) for a person convicted under the circumstances
3 described in paragraph (3) of subsection (b) of Section
4 12-13, paragraph (2) of subsection (d) of Section 12-14,
5 paragraph (1.2) of subsection (b) of Section 12-14.1, or
6 paragraph (2) of subsection (b) of Section 12-14.1 of the
7 Criminal Code of 1961, the sentence shall be a term of
8 natural life imprisonment;

9 (3) except as otherwise provided in the statute
10 defining the offense, for a Class X felony, the sentence
11 shall be not less than 6 years and not more than 30 years;

12 (4) for a Class 1 felony, other than second degree
13 murder, the sentence shall be not less than 4 years and not
14 more than 15 years;

15 (5) for a Class 2 felony, the sentence shall be not
16 less than 3 years and not more than 7 years;

17 (6) for a Class 3 felony, the sentence shall be not
18 less than 2 years and not more than 5 years;

19 (7) for a Class 4 felony, the sentence shall be not
20 less than 1 year and not more than 3 years.

21 (b) The sentencing judge in each felony conviction shall
22 set forth his reasons for imposing the particular sentence he
23 enters in the case, as provided in Section 5-4-1 of this Code.
24 Those reasons may include any mitigating or aggravating factors
25 specified in this Code, or the lack of any such circumstances,
26 as well as any other such factors as the judge shall set forth

1 on the record that are consistent with the purposes and
2 principles of sentencing set out in this Code.

3 (c) A motion to reduce a sentence may be made, or the court
4 may reduce a sentence without motion, within 30 days after the
5 sentence is imposed. A defendant's challenge to the correctness
6 of a sentence or to any aspect of the sentencing hearing shall
7 be made by a written motion filed within 30 days following the
8 imposition of sentence. However, the court may not increase a
9 sentence once it is imposed.

10 If a motion filed pursuant to this subsection is timely
11 filed within 30 days after the sentence is imposed, the
12 proponent of the motion shall exercise due diligence in seeking
13 a determination on the motion and the court shall thereafter
14 decide such motion within a reasonable time.

15 If a motion filed pursuant to this subsection is timely
16 filed within 30 days after the sentence is imposed, then for
17 purposes of perfecting an appeal, a final judgment shall not be
18 considered to have been entered until the motion to reduce a
19 sentence has been decided by order entered by the trial court.

20 A motion filed pursuant to this subsection shall not be
21 considered to have been timely filed unless it is filed with
22 the circuit court clerk within 30 days after the sentence is
23 imposed together with a notice of motion, which notice of
24 motion shall set the motion on the court's calendar on a date
25 certain within a reasonable time after the date of filing.

26 (d) Except where a term of natural life is imposed, every

1 sentence shall include as though written therein a term in
2 addition to the term of imprisonment. For those sentenced under
3 the law in effect prior to February 1, 1978, such term shall be
4 identified as a parole term. For those sentenced on or after
5 February 1, 1978, such term shall be identified as a mandatory
6 supervised release term. Subject to earlier termination under
7 Section 3-3-8, the parole or mandatory supervised release term
8 shall be as follows:

9 (1) for first degree murder or a Class X felony except
10 for the offenses of predatory criminal sexual assault of a
11 child, aggravated criminal sexual assault, and criminal
12 sexual assault if committed on or after the effective date
13 of this amendatory Act of the 94th General Assembly, 3
14 years;

15 (2) for a Class 1 felony or a Class 2 felony except for
16 the offense of criminal sexual assault if committed on or
17 after the effective date of this amendatory Act of the 94th
18 General Assembly, 2 years;

19 (3) for a Class 3 felony or a Class 4 felony, 1 year;

20 (4) for defendants who commit the offense of predatory
21 criminal sexual assault of a child, aggravated criminal
22 sexual assault, or criminal sexual assault, on or after the
23 effective date of this amendatory Act of the 94th General
24 Assembly, the term of mandatory supervised release shall
25 range from a minimum of 3 years to a maximum of the natural
26 life of the defendant;

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(4.5) for defendants who commit a second or subsequent offense of criminal sexual assault on or after the effective date of this amendatory Act of the 95th General Assembly, the term of mandatory supervised release shall be the natural life of the defendant;

(5) if the victim is under 18 years of age, for a second or subsequent offense of aggravated criminal sexual abuse or felony criminal sexual abuse, 4 years, at least the first 2 years of which the defendant shall serve in an electronic home detention program under Article 8A of Chapter V of this Code.

(e) A defendant who has a previous and unexpired sentence of imprisonment imposed by another state or by any district court of the United States and who, after sentence for a crime in Illinois, must return to serve the unexpired prior sentence may have his sentence by the Illinois court ordered to be concurrent with the prior sentence in the other state. The court may order that any time served on the unexpired portion of the sentence in the other state, prior to his return to Illinois, shall be credited on his Illinois sentence. The other state shall be furnished with a copy of the order imposing sentence which shall provide that, when the offender is released from confinement of the other state, whether by parole or by termination of sentence, the offender shall be transferred by the Sheriff of the committing county to the

1 Illinois Department of Corrections. The court shall cause the
2 Department of Corrections to be notified of such sentence at
3 the time of commitment and to be provided with copies of all
4 records regarding the sentence.

5 (f) A defendant who has a previous and unexpired sentence
6 of imprisonment imposed by an Illinois circuit court for a
7 crime in this State and who is subsequently sentenced to a term
8 of imprisonment by another state or by any district court of
9 the United States and who has served a term of imprisonment
10 imposed by the other state or district court of the United
11 States, and must return to serve the unexpired prior sentence
12 imposed by the Illinois Circuit Court may apply to the court
13 which imposed sentence to have his sentence reduced.

14 The circuit court may order that any time served on the
15 sentence imposed by the other state or district court of the
16 United States be credited on his Illinois sentence. Such
17 application for reduction of a sentence under this subsection
18 (f) shall be made within 30 days after the defendant has
19 completed the sentence imposed by the other state or district
20 court of the United States.

21 (Source: P.A. 94-165, eff. 7-11-05; 94-243, eff. 1-1-06;
22 94-715, eff. 12-13-05.)